

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 17-CV-61937-WPD

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

STUDENT DEBT DOCTOR LLC, a Florida
limited liability company,

and

GARY BRENT WHITE, JR., individually and
as an officer of Defendant Student Debt Doctor LLC,

Defendants.

EIGHTH AND FINAL REPORT OF RECEIVER ROBERT CAREY

Pursuant to Section XII of the Stipulated Preliminary Injunction [DE 24] (the “PI”), Robert Carey, not individually, but solely in his capacity as the Court-appointed receiver (the “Receiver”) for Student Debt Doctor LLC (“SDD”), Fidelity Debt Reserve LLC (“Fidelity Debt”), Fidelity Credit Repair LLC (“Fidelity Credit”), Fidelity Reserve Loans LLC (“Fidelity Reserve”), G White Enterprises LLC (“G White”), and Fidelity Asset Holdings Limited Partnership (“Fidelity Asset Holdings”), submits the following Eighth and Final Report.

A. Introduction

During the last few months, I have continued to finish the remaining receivership tasks, including marketing, selling and most recently closing Mr. White’s property (which was previously deeded to me, as Receiver) and recently settling one pre-suit matter with a receivership target (American Express National Bank (“American Express”)). I also recently moved for an extension of time regarding the receivership’s termination, which the Court promptly granted and

extended through and including August 1, 2019, for me to submit final receivership filings and conclude receivership matters [DE 110, 111].

I have accomplished much for the benefit of the Receivership Estate and aggrieved consumers since my appointment in October 2017. Such accomplishments have been repeatedly discussed in the prior seven Reports and will not be re-stated herein. This Eighth and Final Report will solely discuss the recent final work I have performed in the receivership.

B. Identification of Assets and Accounts

1. Receivership Bank Accounts

There is currently **\$1,810,576.83** in total in segregated receivership bank accounts (\$667,411.70 (SDD), \$1,082,746.63 (Fidelity Asset Holdings), \$54,216.91 (Fidelity Debt), \$3,838.49 (Fidelity Credit), and \$2,363.10 (Fidelity Reserve)). This total amount has increased from the Seventh Report, despite payments of various receivership administrative and professional expenses, given the recent approved sale and closing of Mr. White's property and the recent approved settlement with American Express. Specifically, the closing occurred on July 2, 2019, right after the confirmation hearing on same date. The amount of net closing proceeds for the sale was **\$460,547.22**. In addition, I have already received the **\$160,000.00** in settlement funds as a result of my recent settlement with American Express (further discussed below).

Pursuant to the prior settlement between Defendants and the FTC, which was memorialized in the November 30, 2018 Stipulated Order for Permanent Injunction and Monetary Judgment (the "Stipulated Order") [DE 94], namely under Section XI of the Stipulated Order, I will be transferring to the FTC the remaining funds in the Receivership Estate bank accounts, less the total amount sought by me and my professionals in my upcoming final fee application and the requested reserve/holdback amount in my upcoming motion to close the receivership and to discharge me and my professionals.

2. Mr. White's Pompano Beach Townhome/Condominium

During my initial interview of Mr. White, I discovered that Mr. White owned a townhome/condominium in Pompano Beach located at 140 SE 4th Terrace, Pompano Beach, FL 33060 (the "Property"). Mr. White purchased the Property in 2016 in the amount of \$737,651.00 with funds derived from SDD and/or its related entities and which subsequently had two mortgages fully satisfied by Mr. White with funds derived from SDD and/or its related entities.

Because the Property was free and clear of mortgages, and was purchased with funds derived from SDD and/or its related entities, I promptly filed and recorded a Notice of Lis Pendens [DE 26] to ensure the Property was not sold, mortgaged or otherwise transferred or encumbered post-receivership and pending further Order of this Court.

The disposition of the Property was determined under Section VI.B.3 of the Stipulated Order, which required Mr. White to, among other things, (i) deed the Property to me to sell for the benefit of the Receivership Estate; (ii) and pay all expenses associated with the Property prior to deeding the Property to me. The Stipulated Order required Mr. White to deed the Property to me, which he did via Quit Claim Deed.

To assist me in marketing the Property, I engaged Mr. Matthew Ferency, a broker and realtor employed by Illustrated Properties ("IPRE"), to list and market the property for sale. I have worked with Mr. Ferency in several other federal receiverships in which Mr. Ferency successfully sold several receivership properties. Therefore, Mr. Ferency is very familiar with, and thus highly-qualified in explaining to potential buyers, the relevant federal statutes and overall procedure governing the sale of receivership property.¹

¹ Mr. Ferency has been an agent with IPRE since 2003 and has been a Top Producing agent every year during that period. Mr. Ferency has represented dozens of buyers and sellers of homes in the South Florida area, including real property in other receiverships. I negotiated, and Mr. Ferency agreed to, a reduced total sales commission of 5%.

I aggressively marketed the Property for sale. I initially listed the Property for sale for \$595,000, as the value of the Property had diminished since Mr. White's purchase. I obtained three appraisal reports from three disinterested appraisers to assist in determining the initial list price of \$595,000 and to comply with 28 U.S.C. § 2001. The appraisals were in the amounts of \$500,000, \$550,000 and \$630,000. To garner further interest in the Property, I reduced the list price twice; the most current list price was \$555,000. I continued to maintain the Property, including insuring the Property and refurbishing normal "wear and tear" items to maximize the opportunity for an efficient and quick sale. I also rented the Property to Mr. White in the interim of its ultimate sale, which provided additional funds for the benefit of the Estate and ensured a furnished property to maximize marketing efforts.

After arm's length and extensive negotiations, in late April 2019, I entered into the Sales Contract to sell the Property free and clear of liens, claims, encumbrances, and other interests. Specifically, I received an "all cash" offer from a private citizen (the "Buyer") for \$505,000.00 to purchase the Property. The "all cash" offer was significant because it eliminated any financing contingency and the possibility that the Buyer will not qualify for a mortgage loan for the purchase. The Sales Contract was subject to notice, overbid, auction, and other procedures in accordance with 28 U.S.C. §§ 2001 and 2002.

Pursuant to 28 U.S.C. §§ 2001 and 2002, I was obligated to file a motion to approve the sale (see DE 106), obtain an order preliminarily approving same (see DE 108), then publish notice of the proposed sale for four consecutive weeks in a local newspaper for purposes of potentially obtaining an overbid of 10% (the subject fourth week expired on June 20, 2019, with no overbid submitted), and then attend a hearing to confirm the sale assuming there was no overbid (the hearing was set for July 2, 2019). At the July 2nd confirmation hearing, there was no overbid beyond the \$505,000 price, so the Court confirmed the sale and issued a standard confirmation

order to permit the closing to proceed [DE 116]. The closing occurred right after the hearing on July 2, 2019. As stated above, the net closing proceeds for the sale was \$460,547.22.

C. Settlement with American Express

In addition to selling the Property, I was in settlement talks for many months with one receivership target, American Express, which I contend received significant fraudulent transfers from certain Receivership Entities. In October 2018, I served American Express with a pre-suit settlement demand and secured a tolling agreement and several amendments.

Of the \$13-million plus transferred by consumers, American Express received transfers of more than \$1.7 million from SDD, Receivership Entity G White (the d/b/a for SDD), and Mr. White. All transfers were derived from the SDD telemarketing scheme. The Amex accounts/cards involve accounts/cards issued to Mr. White, SDD, and Receivership Entity Fidelity Debt.

Regarding Mr. White's personal Amex card, there were approximately \$491,000 in total charges, of which approximately \$151,000 were paid from his personal bank account and the remaining amount of approximately \$340,000 were paid from company bank accounts.

Regarding the company Amex cards, there was more than \$1.2 million in total charges, which were paid from company bank accounts.

As part of my duties in the Receivership, and by letter dated October 11, 2018 (the "Demand"), I made a pre-suit Demand on American Express. American Express disputed that I was entitled to recover any of the transfers, or to any relief whatsoever sought against American Express related to the Demand, and asserted pre-suit defenses to the Demand.

Both American Express and I agreed that for purposes of the settlement, the focus should be solely on Mr. White's personal Amex card. In addition, American Express and I agreed that for purposes of the settlement, the \$151,000 paid from Mr. White's bank account should be

deducted from the \$491,000 in charges on Mr. White's Amex card, netting approximately \$340,000 as stated above.

Of the charges on Mr. White's personal Amex card, American Express contended that some of the charges appear to be personal in nature, some of the charges appear to be questionable in nature (*i.e.*, either personal or business-related), and some appear to be business in nature.

Since the Demand many months ago, American Express and I have engaged in good faith settlement discussions and reached mutually-agreeable settlement terms memorialized in a settlement agreement that was subject to the approval of the Court, necessitating a motion to approve the settlement agreement.

The material terms of the settlement agreement included the following:

- a. American Express will pay me a lump sum of \$160,000.00 within thirty (30) days of the Order from the Court granting the motion and approving the settlement agreement; and
- b. American Express and I will exchange mutual releases, again conditioned on an Order from the Court.

On July 2, 2019, I filed a motion to approve the settlement agreement, which this Court immediately granted [DE 115, 117]. As stated above, I have already received the settlement proceeds of \$160,000.

D. Disposing of Receivership Records and ESI

As reported previously, I did not liquidate any of SDD's previously used computers, servers, or hard drives in the prior-authorized auction if they contain ESI. As of the receivership's commencement, and putting aside professional fees and expenses, the receivership has continued to incur administrative expenses, including, but not limited to, storage at a secure location for hard

copy files and computer equipment that have continued to be preserved and storage for voluminous ESI that has continued to be preserved.

Because the receivership is ending, I filed a motion to dispose of computer equipment, electronically stored information and hard copy files, which this Court promptly granted [DE 109, 112]. As a result, I have successfully disposed of the physical and electronic receivership files. I am also in the process of shutting down and cancelling any and all electronic accounts, websites, data storage providers, and the like with various online service companies including, but not limited to, Vultr Holdings Corporation and Google LLC. Finally, I was authorized to either sell, donate, or scrap the remaining computer equipment after the electronic storage devices had been removed and the data within had been electronically shredded. I recently sold the lot of CPU's (without the hard drives) for \$2,700 to a local scrapping company.

E. Potential Consumer Redress Process

If the FTC ultimately decides to go forward with a consumer redress process in the future, I have previously preserved and recently transferred to the FTC the necessary consumer information in a format that is easily accessible to the FTC.² Because there were approximately 30,000 victims of the various services marketed by SDD and other Receivership Entities, I provided the FTC with a breakdown of each consumer's net losses, contact information, and which entity processed the transactions.

² The images/snapshots of the Receivership Entities' custom databases or Consumer Relationship Managers ("CRMs") were preserved in their original SQL format. These SQL databases are extremely large (*e.g.*, 1.2 terabytes compressed) and unwieldy since they contain a voluminous number of tables encompassing virtually every communication between the individual consumers (*i.e.*, emails, voicemails, facsimiles and the like), and need to be "mounted" prior to writing computer code (*i.e.*, Query) to access the information contained regarding consumer information. Thus, it made sense to request assistance from the original programmer of the various databases to extract the information which will be required if and when the FTC determines it makes economic sense to go forward with a redress process.

F. Final Tax Work

As stated previously, and in order to assist me in marshaling the Receivership Entities' assets for the benefit of the Receivership Estate, as well as performing necessary tax work, I retained the forensic accounting firm of KapilaMukamal ("KM"). KM identified and assisted in obtaining, requesting, and reconstructing financial records such as bank records, credit card statements, payroll records, merchant account records, bookkeeping records, tax records, and other professional services records.

As of this Final Report, KM has prepared, and I will be filing shortly, the necessary tax returns and filings for tax year 2018. In addition, and despite the receivership terminating in the very near future, KM will need to perform the necessary tax filings for the Receivership Entities for tax year 2019. This issue will be discussed in the upcoming (last) motion to close the receivership and to discharge me as Receiver and my professionals. I anticipate filing that motion on or before the termination deadline of August 1, 2019. Because the receivership is terminating in the near future, and KM will need to be compensated for the future 2019 tax work, my upcoming motion to close/discharge will include an additional amount to cover KM's future work for tax year 2019 (as well as to cover additional minimal trailing fees and expenses for me/my counsel).

G. Any Other Matters Which I Believe Should Be Brought to the Court's Attention

As stated above, the receivership is ending on August 1, 2019. I will work efficiently to submit my final filings during the next two weeks, including my final fee application and the motion to close the receivership and to discharge me as Receiver and my professionals.


Robert Carey, not individually,
but solely in my capacity as Receiver

Dated: July 16, 2019